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10/516,830	12/07/2004	Ronen Lin	1874-4050	7206
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MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101				
EXAMINER				
STEELE, JENNIFER A				
ART UNIT		PAPER NUMBER		
1794				
NOTIFICATION DATE		DELIVERY MODE		
02/21/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/516,830

Applicant(s)

LIN ET AL.

Examiner

JENNIFER STEELE

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20, 22, 24--54 and 66-70 is/are pending in the application.
- 4a) Of the above claim(s) 55--65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20, 22, 24--54 and 66-70 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 1, 19, 38, 43, 46, 47, 48, 49, 66, 69, 70 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite the limitation that "adjacent apertures of said plurality of apertures being separated by a respective link of said plurality of links". The links are disclosed in paragraph [0038] to describe Figure 2. As disclosed, paragraph [0038] and Figure 2 shown a single strand 210 that is knitted or crocheted to form a structure that contains loops, links and apertures that Examiner is equating to loops and links to knitted stitches where yarns or ribbons are intertwined to form a knitted structure or more specifically a crocheted structure. Examiner is equating the apertures to be the holes or openings between the yarns or ribbons. As this limitation states that there are "adjacent apertures of said plurality of apertures being separated by a respective link of said plurality of links" it is not clear if this is describing stitches and/or openings between the stitches that are found in a Raschel knitted or crocheted net or if the loops, links and apertures have a different representation in the structure that would not be known to one of ordinary skill in the art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. Claim 1-20, 22, 24-35, 38-49, 52-54, 66-70 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275).

Mass teaches a knitted netting that is used in wrapping loads on pallets and bales of agricultural products (col. 1, lines 7-10). Mass teaches a knitted netting used in wrapping wherein the knitted netting is designed to minimize the transverse shrinkage of the netting (col. 1, lines 10-12). Mass teaches a knitted netting comprising longitudinal polyolefin ribbons and lateral polyolefin ribbons knitted with the longitudinal polyolefin ribbons to form a knitted netting (claim 1).

Mass teaches a structure wherein the longitudinal ribbons, also named franzes, are formed with a series of loops so that the lateral ribbons, also called shusses, are knitted into the loops (shown in Figure 2). Mass teaches Raschel knitted netting is known in the art and the structure of the knitted netting includes yarns or ribbons interwoven or knit to form apertures, loops and links and Applicant claims. Examiner is equating this structure to the Applicants structure of "each longitudinal ribbon comprises

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a single strand of material looped at regular intervals throughout said each longitudinal ribbon forming a plurality of apertures and a plurality of links".

Mass teaches a Raschel netting having longitudinal franzes and interconnecting shusses (col. 3 and 4). Mass teaches a knitted netting including a modified schuss that is about 30% longer than the prior art schuss provided by the knitting machine becomes narrower by about 12% at 60% elongation. Mass teaches the preferred amount of elongation of the schuss length depends upon the particular netting application. For elastic pallet wrapping, the preferred actual schuss length is about 135% of the calculated schuss length for the netting (col. 3, lines 1-26).

As to claims 38-40 and 43-49, Mass teaches a roll of netting for wrapping a bale of agricultural product and a bale is diagramed in Figure 8.

Mass differs from the current application and does not teach a reflective ribbon or a reflective indicator strip.

Tsunejima teaches a fiber product having reflective threads and a reflective implement provided by using the fiber threads (ABST). The fiber products and reflective implements will reflect the incident light at night to provide safety (col. 13, lines 55-67). Tsunejima teaches fiber products such as woven fabric, a Jacquard woven fabric, a braided string, a knitted string, a twisted string and knitted lace (col. 13, lines 39-45). Tsunejima teaches implements made of the fiber products including a rope for use at night at a construction site, the forming implement for use in a variety of bags, the fastener loading tape, a button wrapping implement, a cover for a traffic safety sign, the implement for wrapping a fishing float, a ring buoy, a life jacket, a rain coat all of which

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reflect light at night to provide safety for the user (col. 13, lines 55-67). Tsunefuji teaches many structures where the reflective fiber product is woven, knitted, braided into an existing fabric structure. Examiner equates Tsunefuji teaching with Applicant's limitation where "at least one interconnecting reflective indicator interconnecting through at least a portion of said plurality of apertures of the plurality of longitudinal ribbons". Mass teaches a knitted netting for wrapping bales of agricultural products. Tsunefuji teaches a reflective fiber product that can be used in many products where being able to see the product at night is important. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine a reflective indicator fiber product of Tsunefuji in the knitted netting of Mass motivated to produce a knitted netting that will be visible at night.

As to Claims 66-69, Mass in view of Tsunefuji does not teach reflection value of at least 30 and does not teach a 50 ft visibility. When the reference discloses all the limitations of a claim except a property or function, and the examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention the examiner has basis for shifting the burden of proof to applicant as in *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112- 2112.02

3. Claim 36 and 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275) and in further view of Wasserman (US 4,697,407). Mass in view of Tsunefuji teaches a netting for a bale of agricultural products with a reflective material. Mass in view of Tsunefuji does not teach

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a reflective material that is made reflective by the addition of reflective particles that are very small glass beads. Wasserman teaches a thread like continuous retroreflective fiber that is produced of a retroreflective material (ABST). Wasserman teaches a retroreflective material is produced of minute glass beads bonded in a flexible elastomeric material (claim 1). Wasserman teaches a retroreflective film and a fiber and yarn made from the retroreflective film (col. 2, lines 37-44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a reflective material that is made with glass particles motivated by the reflective materials, fibers and yarn made from glass particles taught by Wasserman.

4. Claim 50 and 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275) and in further view of Chizmas (US 6,660,378). Mass in view of Tsunefuji differs from the current application and does not teach reflective indicator applied in liquid form as stated in claim 50 and does not teach a reflective tape as stated in claim 51. Chizmas teaches a glow-in-the-dark animal tie-out that is comprised of a rope with an outer layer having glow-in-the-dark properties (ABST). Chizmas teaches that the glow-in-the-dark outer surface comprises a coating chosen from the group consisting of a paint, a dye and a tape (claim 11). It would be obvious to one of ordinary skill in the art at the time the invention was made to use a night visible reflective tape or coating on a yarn or rope as taught by Chizmas in the invention of Mass motivated provide a netting with a component that has night time visibility.

5. Claim 66-69 rejected under 35 U.S.C. 103(a) as being unpatentable over Mass (US 6,521,551) in view of Tsunefuji (US 5,804,275). Mass in view of Tsunefuji does not teach reflection value of a least 30 and does not teach a 50 ft visibility. When the reference discloses all the limitations of a claim except a property or function, and the examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention the examiner has basis for shifting the burden of proof to applicant as in *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112- 2112.02

Response to Arguments

6. Applicant's arguments filed 12/28/2008 have been fully considered but they are not persuasive. Applicant's amended claims to add limitations to further describe the structure of the knitted net with a reflective indicator. Examiner has maintained the previous 35 USC 103(a) rejection with respect to Mass in view of Tsunefuji and Mass in view of Tsunefuji and Wasserman and Mass in view of Tsunefuji and Chizmas.

7. Applicant's arguments that Mass fails to teach or suggest each franze comprises a single strand of material looped at regular intervals are not persuasive. As stated in this Office Action, Mass teaches a Raschel knitted net structure. It is known in the art a knitted structure will be formed of a yarn or ribbon that is formed into loops and links and apertures to form a knitted structure. A knitted structure is a structure is a yarn that is looped and linked to create the structure. Mass further teaches a knitted netting structure that is capable of elongation in the range of up to 200%.

8. Applicant's arguments that Tsunefuji does not teach nor suggest that the fiber product is formed into a knitted netting are not persuasive. Tsunefuji teaches a reflective fiber that is formed into a number of different woven and knitted structures and a number of different embodiments as stated in this Office Action. As Tsunefuji teaches the reflective fiber can be knitted and woven into fabrics of various structures. As stated above, the structure of a knitted fabric will have loops, apertures and links with which to incorporate or knit the reflective fiber of Tsunefuji. Tsunefuji is a finding that one of ordinary skill in the art could of employed the reflective fiber of Tsunefuji in a knitted netting structure with a reasonable expectation of success.

9. Applicant's arguments with respect to Mass in view of Tsunefuji and Wasserman and Chizmas are not persuasive. Wasserman is relied upon to teach the feature of reflective indicating glass beads. Chizmas is relied upon to teach the feature of a liquid reflective material. Both Wasserman and Chizmas are findings that one of ordinary skill in the art could of employed these techniques of producing a reflective material with a reasonable expectation of success.

10. Applicant's arguments that there is no teaching or suggestion to modify Mass are not persuasive. Mass teaches a knitted net that can be used to bale crops and Tsunefuji teaches a reflective fiber that can be formed into a fabric structure for use in many embodiments where it is important to see the fabric in the dark or at night. Wasserman and Chizmas teaches other techniques for producing a fabric structure with reflective properties. With respect to Applicant's arguments that there is no suggestion of motivation to combine, the rationale to modify or combine the prior art does not have

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to be expressly stated in the prior art; the rationale may be expressly or impliedly contained in the prior art or it may be reasoned from knowledge generally available to one of ordinary skill in the art, established scientific principles, or legal precedent established by prior case law. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347,21 USPQ2d 1941 (Fed. Cir. 1992).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER STEELE whose telephone number is (571)272-7115. The examiner can normally be reached on Office Hours Mon-Fri 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S./
Examiner, Art Unit 1794

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

2/8/2008